



Metropolitan Police Department
Office of Professional Responsibility
Civil Rights & Force Investigation Division
MOA Compliance Monitoring Team



Metropolitan Police Department
and
U. S. Department of Justice

Memorandum of Agreement
Progress Report



APRIL 8, 2005

“Difficulty is the excuse history never accepts.”

-Edward R. Murrow

Introduction

In January 1999, Chief of Police Charles Ramsey and District of Columbia Mayor Anthony Williams asked the United States Department of Justice to review the Metropolitan Police Department's (MPD) practices as they related to police use of force. In March 2001, the U.S. Department of Justice (DOJ) concluded its review, and later entered into a Memorandum of Agreement (MOA) with the District of Columbia and the Metropolitan Police Department on June 13, 2001. The Agreement built upon the work MPD started during the course of the review, and provided that an Independent Monitor would evaluate the implementation of the Agreement. When the balance of the reforms contained in the Agreement are implemented, the Metropolitan Police Department will be a model for the nation on how to uphold the rule of law while using force only when and to the extent necessary.

This progress report is the thirteenth submitted by the Department's Compliance Monitoring Team (CMT). The CMT, part of the MPD's Office of Professional Responsibility (OPR), was created by Chief Ramsey to ensure the timely implementation of and compliance with the Memorandum of Agreement. This quarterly report reflects MPD's Memorandum of Agreement activity from January 1, 2005, through March 31, 2005.

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MPD's quarterly reports are required by Memorandum of Agreement paragraph 175.¹ They have been designed by the MPD to share our MOA-related activities not only with the U.S. Department of Justice and the Office of the Independent Monitor (OIM), but also throughout the Metropolitan Police Department and the citizenry at large. Furthermore, there is an addendum to this quarterly report that lists all of the MOA paragraphs and the status of each item.

¹ MOA paragraph 175 states, “Between 90 and 120 days following the effective date of this Agreement, and every three months thereafter until this Agreement is terminated, MPD and the City shall file with DOJ and the Monitor a status report delineating all steps taken during the reporting period to comply with each provision of this Agreement.”

The Metropolitan Police Department is currently in its fourth year of work on implementing the reforms called for in the Memorandum of Agreement. The fourth and fifth years of the MOA are significant in that MPD's "substantial compliance" with the MOA is measured during this time. Paragraph 182 of the MOA reads, in part, that,

"The Agreement shall terminate five years after the effective date of the Agreement if the parties agree that MPD and the City have substantially complied with each of the provisions of this Agreement and maintained substantial compliance for at least two years. The burden shall be on the City and MPD to demonstrate that it has substantially complied with each of the provisions of the Agreement and maintained substantial compliance for at least two years..."

The Office of the Independent Monitor is tasked with determining if MPD has substantially complied with the MOA and uses their quarterly reports to provide an analysis of MPD's compliance efforts. As previously reported, the Independent Monitor, MPD, and DOJ have devoted a significant amount of time to defining the concept of "substantial compliance" to ensure that there are clearly defined measures for each requirement of the MOA. The OIM recently began including the objective substantial compliance standards that have been drafted as part of their quarterly reports. The OIM has also started to include assessments of MPD's compliance with these standards. In their last two reports, the OIM has documented a baseline measure of MPD's compliance with all of the substantial compliance standards for the MOA.² A more detailed discussion of the OIM's activities can be found in the "*Independent Monitor*" section of this report.

MPD has continued its efforts to fully comply with all areas of the MOA, and has achieved a number of important accomplishments during this quarter including receiving DOJ approval for a number of MOA deliverables. On February 17, 2005, DOJ provided their final approval for the *Canine Teams General Order*.³ MPD is very pleased to report that this important policy was published on February 18, 2005 and has been distributed to the Department. MPD and DOJ worked very hard during the past two years to revise this order to more accurately describe the tenets of MPD's canine training philosophy, Handler Controlled Alert Methodology (HCAM). MPD feels that the new order will help to enhance Department members understanding of HCAM and enhance the operations of our canine program. A copy of the Canine Teams General Order that was issued to the Department is included as an attachment to this report.

MPD also received DOJ's approval on several other important items. On February 10, 2005, DOJ provided their approval for MPD's Cultural Diversity and Sensitivity Awareness Lesson Plan. This lesson plan is one of twenty-six lesson plans that the

² It should be noted that the OIM structured their monitoring such that they would be able to make substantial compliance evaluations for all of the MOA requirements by the end of calendar year 2004.

³ MOA paragraphs 44-46

Department has developed or enhanced to meet the requirements of MOA paragraphs 84, 122, and 129. These paragraphs, in part, require that supervisors and investigators receive training on various procedural and operational topics. MPD has now received approval on twenty-two of the twenty-six lesson plans. In their February 10, 2005, letter, DOJ complimented MPD on the latest set of lesson plans submitted saying they were "thorough and comprehensive" and that they "reflect a great deal of effort on the part of [the Institute of Police Science]."⁴ MPD is very pleased with our progress on finalizing the remaining lesson plans.

On December 22, 2004, DOJ approved the Memorandum of Understanding (MOU) between the Office of Police Complaints (OPC)⁵ and MPD⁶. MPD and OPC had originally signed an MOU in September of 2002. However, both the Department of Justice and the Independent Monitor identified conflicts within the Memorandum of Understanding that did not comport with enumerated requirements in the MOA. MPD and OPC worked extensively over the past two years to negotiate revisions to the MOU and are very pleased to report that the MOU was signed by both agencies on January 28, 2005. MPD believes that this revised MOU will improve information exchange between the agencies and will help to formalize the cooperative relationship that exists between the agencies. A copy of the signed MOU is included as an attachment to this report.

On December 21, 2004 DOJ provided formal notification that MPD had satisfied the requirements of MOA paragraph 159 that requires the Department to develop a plan to limit the total number of hours an officer may work in any twenty-four hour period and in any seven-day period to prevent officer fatigue.⁷ MPD satisfied this requirement by drafting the *Limitation on Work Hours General Order*. The approved order was published on January 6, 2005, and has been issued to the Department. A copy of the order is included as an attachment to this report.

Finally, on February 10, 2005, DOJ notified MPD that our Processing Citizen Complaints General Order satisfied the requirements of MOA paragraph 94.⁸ Completing the MPD OPC Memorandum of Understanding helped to identify each agency's role in processing

⁴ See letter from Tammie Gregg to Inspector Matthew Klein, "IPS and Use of Force Lesson Plans, MOA ¶¶ 84, 122, and 129," February 10, 2005.

⁵ The Office of Police Complaints was formerly called the Office of Citizen Complaint Review. The agency changed its name on January 1, 2005.

⁶ MOA paragraph 85

⁷ It should be noted that, in a letter dated December 21, 2004, the Department of Justice restated their recommendation that MPD should reduce the number of work hours a member can work in a calendar week from 98 to 72 and in a 24-hour period from 18 to 16. However, DOJ also clarified that MPD's decision not to adopt that recommendation would not amount to "non-compliance" with MOA paragraph 159.

⁸ MOA paragraph 94 reads, in part, "...MPD's Office of Professional Responsibility (OPR) shall be responsible for receiving all complaints filed directly with MPD. MPD shall assign and record a control system number for each complaint immediately. All complaints made at MPD locations other than OPR shall be forwarded to OPR within 24 hours, or the next business day. Within 24 hours, or the next business day OPR shall notify OCCR of any complaint alleging any of the following: harassment; use of unnecessary or excessive force; use of insulting, demeaning, or humiliating language; or discriminatory treatment."

citizen complaints and helped guide the finalization of this MPD General Order. MPD is very pleased to have received DOJ approval on this important order. However, we notified DOJ that process issues had arisen with the order and that we would like to propose some minor revisions before it is published. We are confident that the issues will be resolved quickly.

In addition to working on MOA deliverables, MPD focused a great deal of time and resources to working on the development of the Personnel Performance Management System (PPMS) during this quarter. The PPMS is a computer system, mandated by the MOA, that will be,

“a computerized relational database for maintaining, integrating, and retrieving data necessary for supervision and management of MPD and its personnel.”⁹

As previously reported, MPD had experienced significant setbacks in the area of funding for PPMS. In March of 2004, MPD had to temporarily interrupt work with our selected vendor due to a lack of funding. Accordingly, since March 2004, MPD has been directing its efforts toward restarting work with the PPMS vendor and on working with DOJ on negotiating a third modification to the MOA that would provide new deadlines for the development of PPMS.

MPD is very pleased to report that the contract to restart work with our selected vendor was finalized during this quarter, and the contract was approved by City Council on February 25, 2005. Finalizing the contract was a multi-agency effort within the District of Columbia (DC), and MPD received exceptional guidance and support from the DC Office of the Chief Technology Officer, the DC Office of Contracting and Procurement, and the DC Office of the Attorney General. In addition to finalizing the contract, MPD and the City also reached agreement with DOJ on new deadlines for the development of the PPMS system and executed the third joint modification to the MOA on March 1, 2005.¹⁰ Signing the Modification removed MPD and the City from breach status and was a key accomplishment this quarter. A copy of the signed modification is included as an attachment to this report. A more detailed discussion of MPD's PPMS efforts can be found in the *"Personnel Performance Management System"* section of this report.

The Metropolitan Police Department is confident we are continuing on our way to completing the reforms called for by the MOA and becoming a model for the nation on how to uphold the rule of law while using force only when and to the extent necessary. MPD recognizes the importance of ensuring substantial compliance with all of the requirements of the MOA, and we will continue to treat our MOA efforts as a priority.

⁹ See MOA paragraph 106

¹⁰ MOA paragraph 194 provides that, "The Parties may jointly agree, in writing, to modify this Agreement."

Compliance Monitoring Team

The Compliance Monitoring Team (CMT) was created by Chief Ramsey in February 2002, to ensure the timely implementation of and compliance with the Memorandum of Agreement. The CMT falls under the Civil Rights and Force Investigation Division, located within MPD's Office of Professional Responsibility (OPR). The CMT is tasked with coordinating the Department's MOA-related activities and also serves as the primary liaison with the Department of Justice and the Office of the Independent Monitor. In addition, the CMT is responsible for drafting MPD's quarterly progress reports that document our MOA activities.

The CMT continued its compliance activities during this reporting period, and coordinated a variety of Memorandum of Agreement efforts. During this quarter, members of the Compliance Monitoring Team worked closely with the Department's PPMS project leaders on finalizing and executing the third modification to the MOA. CMT members attended work sessions coordinated by the MPD Chief Information Officer with other City agencies including OCTO, OCP and OAG to finalize the contract with the vendor. In addition, the CMT also assisted with briefing City Council members on the PPMS project and the MOA.

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The CMT also continued to provide support to various MPD units to assist them in completing MOA deliverables and to facilitate compliance documentation. The CMT worked with the staff of the Institute of Police Science (IPS) in helping to prepare revised lesson plans and continued attending monthly meetings with IPS staff regarding the Field Training Officer (FTO) program. In addition, CMT members met with members of the Policy and Program Development Division to discuss the remaining general orders being developed for MOA compliance.

The CMT continued to work closely with the Independent Monitor to assist their police practice experts in reviewing MPD compliance efforts. The CMT met with OIM representatives during this quarter to discuss the OIM's concerns regarding the operations of the Use of Force Review Board (UFRB). The OIM met with members of the CMT as well as the Assistant Chief of OPR to provide technical assistance regarding suggestions the OIM had for improvements to the operation of the Board as well as to discuss proposed training for Board members. In their recent reports, the OIM has cited repeated concerns about the operations of the Board as well as the Board's compliance with the MOA. The meetings were very beneficial in outlining

improvements that can be made to enhance UFRB operations. MPD staff have finalized proposed recommendations for Chief Ramsey's review and hope to implement improvements to the Board during the next quarter.

The CMT also continued its practice of meeting monthly with the Department of Justice to discuss MOA activities and worked closely with DOJ during this quarter on finalizing and executing the third modification to the MOA dealing with PPMS deadlines. In addition, the CMT remains the central repository for MPD's Memorandum of Agreement documents, and has been documenting and transmitting draft policies and other deliverables to DOJ and the Office of the Independent Monitor consistent with MOA paragraph 173.¹¹

General Orders and Policies

Over the course of the Memorandum of Agreement, the U.S. Department of Justice has approved, and MPD has issued, a number of policies related to the Memorandum of Agreement. They include:

- *Use of Force General Order* (MOA paragraphs 37-40)
- *Use of Force Investigations General Order* (MOA paragraph 53)
- *Use of Force Incident Report* (MOA paragraph 53)
- *Handling of Service Weapons General Order* (MOA paragraphs 41 and 43)
- *Canine Teams General Order* (MOA paragraphs 44-46)
- *Oleoresin Capsicum Spray General Order* (MOA paragraphs 47-50)
- *Force Investigation Team Organizational Plan and Operations Manual* (MOA paragraph 57)
- *Force Related Duty Status Determination General Order*
- *Carrying Weapons and Transporting Prisoners Aboard Aircraft General Order*
- *Use of Force Review Board General Order* (MOA paragraph 67)
- *The Office of Internal Affairs Operational Manual* (MOA paragraph 72)
- *Serious Misconduct General Order* (MOA paragraph 72)
- *Community Outreach Program for Filing Citizen Complaints* (MOA paragraph 91)
- *Specialized Mission Unit General Order* (MOA paragraph 150-158)¹²

¹¹ MOA paragraph 173 states, "The parties agree that MPD shall hire and retain, or reassign a current MPD employee, for the duration of this Agreement, as an MPD Compliance Coordinator. The Compliance Coordinator shall serve as a liaison between MPD, the Monitor and DOJ, and shall assist with MPD's compliance with this Agreement. At a minimum, the Compliance Coordinator shall: (a) coordinate MPD compliance and implementation activities of this Agreement; (b) facilitate the provision of data, documents and other access to MPD employees and material to the Monitor and DOJ as needed; (c) ensure that all documents and records are maintained as provided in this Agreement; and (d) assist in assigning compliance tasks to MPD personnel, as directed by MPD Chief of Police or his designee."

¹² It should be noted that although this general order has received DOJ approval, DOJ is allowing MPD to delay implementation of the order until the use of force reporting requirements for specialized mission units are finalized.

- *Carrying Service Firearms While Off-Duty in the District of Columbia* (MOA paragraph 42) ¹³
- *Limitation on Work Hours General Order* (MOA paragraph 159)

Pending Reengineered Policies

During this reporting period, the Metropolitan Police Department and the U.S. Department of Justice continued to exchange a variety of detailed correspondence concerning numerous draft MPD policies and procedures. A status matrix containing all of the MOA paragraphs is submitted as an attachment with this report.

Citizen Complaint General Order

The Metropolitan Police Department submitted a draft *Citizen Complaint General Order* (MOA paragraph 94) to DOJ on October 4, 2002. DOJ replied with detailed comments on November 25, 2002. MPD forwarded the draft to the Office of Citizen Complaint Review on December 27, 2002. The Office of Police Complaints provided their comments to MPD on January 17, 2003.

After completion of the draft MPD OPC Memorandum of Understanding on October 7, 2003, MPD incorporated relevant portions of the MOU into the general order and shared a revised draft of the order with OPC on December 8, 2003. OPC provided comments on December 10, 2003. On March 31, 2004 MPD notified DOJ that we had become aware that the Fraternal Order of Police (FOP) had raised concerns regarding OPC and that their concerns impacted their ability to comment on the general order. On April 30, 2004, the FOP received further clarification from OPC regarding their policies in dealing with MPD officers, and the FOP provided their comments on the order to MPD on June 29, 2004.

In addition to incorporating the DOJ's comments, MPD also worked to ensure that the order remained consistent with the Memorandum of Understanding that was being revised between MPD and the Office of Police Complaints. MPD and OPC obtained DOJ approval of the MOU on December 22, 2004. Accordingly, MPD submitted a revised version of the order to DOJ for approval on December 30, 2004. On February 10, 2005, DOJ provided their approval of the order. However, MPD contacted DOJ on February 11, 2005 to notify them of several process issues concerning the order that had arisen. MPD is working to resolve those issues and plans to return the revised general order to DOJ early during the next reporting period.

¹³ It should be noted that the special order "*Carrying Service Firearms While Off-Duty in the District of Columbia*," which was drafted in order to demonstrate partial compliance with MOA paragraph 42, did not require formal DOJ approval. Accordingly, a copy of the policy was shared with both DOJ and the OIM after it was implemented.

Limitation on Work Hours General Order

On November 27, 2002, MPD submitted a draft plan to limit the number of hours worked by MPD officers in any 24-hour period and in any seven-day period (MOA paragraph 159). After the submission of the plan, MPD developed a draft general order, *Limitations on Work Hours*. On September 30, 2003 DOJ requested a status update on progress with that order. MPD submitted a draft general order for DOJ's review and approval on February 23, 2004. DOJ provided comments on the order on June 10, 2004. MPD reviewed DOJ's comments and prepared a response that was submitted to DOJ on June 30, 2004.

DOJ provided their comments on the revised draft on October 29, 2004. In their letter, DOJ recommended that MPD reduce the total number of hours a member can work in a calendar week from 98 to 72, and in a 24-hour period from 18 to 16. However, on December 21, 2004 DOJ clarified in a subsequent letter that MPD's decision not to adopt their recommendation to reduce the hour-limits would not amount to "non-compliance" with MOA paragraph 159. MPD was very pleased to be able to move forward and publish this order. The order was published on January 6, 2005.

Performance Evaluation System Enhancements

The Metropolitan Police Department submitted draft enhancements to its *Performance Evaluation System (PES)* (MOA paragraph 118) to DOJ on November 8, 2002. DOJ provided comments on the PES protocol on May 2, 2003. MPD provided a status report on those comments on September 30, 2003. On October 6, 2003, DOJ provided comments on the status report by email. MPD provided an additional status report on our efforts with the protocol on March 5, 2004. MPD provided a finalized plan to DOJ for review on July 1, 2004.

DOJ requested some additional materials to aid in their review on September 24, 2004. MPD provided those materials to DOJ on September 29, 2004. Both MPD and DOJ had been working toward finalizing the enhancements to the *PES* in time for the Fiscal Year (FY) 2005 annual performance ratings.¹⁴ However, on November 29, 2004 MPD contacted DOJ to inform them that we had decided it was necessary to move forward with the FY 2005 performance ratings before receiving approval for the *PES*. On December 15, 2004, DOJ provided additional comments on the *PES*. MPD is currently reviewing those comments. DOJ has asked that MPD submit revisions to the *PES* by the end of the next quarter to help ensure that that the *PES* can be finalized and approved in time for the FY 2006 performance ratings. A more detailed discussion of the *Performance Evaluation System* is included in the "*Personnel Performance Management System*" section of this report.

¹⁴ Fiscal Year 2005 begins for MPD on October 1, 2004.

Canine Teams General Order

MPD originally received DOJ approval for the *Canine Teams General Order* during 2002 and issued the policy to the Department on October 7, 2002. However, both DOJ and MPD agreed that the order needed to be enhanced. Accordingly, MPD submitted a revised version of its approved *Canine Teams General Order* (MOA paragraphs 44-46) to DOJ for review on June 4, 2003. DOJ provided comments on that order on July 25, 2003. In their July 25, 2003 letter, DOJ also promised to provide policy revisions they believed to be consistent with the Memorandum of Agreement requirements and the parties' previous agreements. On September 30, 2003, DOJ provided the policy recommendations to further guide MPD's revisions of the *Canine Teams General Order*.

On December 31, 2003 MPD provided a revised general order to DOJ along with a detailed response to all of DOJ's recommended policy revisions. On March 31, 2004, DOJ provided additional comments on the revised general order. MPD provided a revised version of the order to DOJ that attempted to address all of their remaining concerns on June 26, 2004. On September 17, 2004 the Department of Justice emailed MPD with two final requests for the general order. MPD accommodated DOJ's requests and submitted the order to DOJ for final approval on September 24, 2004.

MPD received DOJ's final approval on November 22, 2004. However, as MPD was preparing to publish the approved order, one additional clarification was identified by MPD as being necessary for the order prior to its publication. Accordingly, MPD contacted DOJ on December 6, 2004 and requested that the definition of a "tactical use of a canine" be amended to include on-lead tracks for suspects. DOJ approved MPD's request on January 21, 2005 and requested a review of the finalized order prior to publication. MPD provided a copy of the finalized order for DOJ review on February 11, 2005 and received DOJ's final approval to publish the order on February 17, 2005. MPD published the order on February 18, 2005.

Specialized Mission Unit General Order

The Metropolitan Police Department submitted a draft *Specialized Mission Units General Order* (MOA paragraphs 150-158) to DOJ on October 4, 2002. DOJ provided comments on the order on January 31, 2003. MPD provided a revised draft of the order on June 30, 2003. DOJ provided comments on the order on August 25, 2003. MPD submitted a revised order, along with a copy of the revised *Specialized Mission Units After Action Report* (SMUAAR) on December 31, 2003 as part of a larger package regarding revisions to the use of force reporting requirements for MPD. The SMUAAR is a form designed by MPD for Specialized Mission Units for incidents when multiple members of those units point their service weapons at or in the direction of other persons under specific enumerated circumstances. A more detailed discussion of the SMUAAR can be found in the *Specialized Mission Unit After-Action Report* section of this report.

On March 30, 2004 DOJ provided their final approval for the *Specialized Mission Units General Order*. However, on March 31, 2004, MPD requested a delay in the requirement to implement the *SMU General Order*. According to the first modification to the MOA, MPD agreed to implement all DOJ approved policies within 14 business days of receiving DOJ approval.¹⁵ However, MPD wanted to resolve the outstanding issues regarding use of force reporting and the *SMUAAR* prior to implementing the *SMU General Order* since the *SMU General Order* contains reference to the *SMUAAR* and outlines the process for completing it. In addition, MPD thinks it will be helpful to implement all of the changes to the force reporting requirements at one time to help minimize officer confusion.

Accordingly, MPD requested a delay in implementing the *SMU General Order* until 14 business days after DOJ's approval of the *After Action Report*. DOJ granted MPD's request, and MPD prepared a written response to DOJ's March 30, 2004 letter on April 9, 2004. On September 30, 2004, DOJ provided a response to MPD's latest draft of the *After Action Report* and the other use of force reporting materials. MPD provided a response to DOJ's most recent comments on December 1, 2004. DOJ provided their response on January 26, 2005. MPD is very close to receiving final approval from DOJ on our force reporting requirements and plans to submit our final revisions during the next quarter.

Disciplinary Process General Order

A draft *Disciplinary Process General Order* (MOA paragraph 105) was submitted to DOJ for review on May 19, 2003. It should be noted that the draft policy was due to DOJ during the renegotiated period of the week of November 17, 2002. However, as previously reported, MPD shared a draft of the order with the Fraternal Order of Police for comment. Prior to November 17, 2002, the FOP indicated that they had concerns with aspects of the draft order. MPD notified DOJ of those concerns and chose to delay the submission of the draft order to address the FOP's concerns.

DOJ provided comments on the May 19 draft order on August 25, 2003. MPD worked on revising the order last year in consultation with the FOP. However, the revision process coincided with ongoing negotiations between the FOP and MPD regarding compensation and working conditions. Article 12 of the Collective Bargaining Agreement, which specifically relates to disciplinary procedures, was one of the items being negotiated. Accordingly, proposed changes to disciplinary procedures needed to be addressed formally at the bargaining table. MPD notified DOJ on July 29, 2004 that the *Disciplinary Process General Order* could not be finalized by MPD until those negotiations were completed.

¹⁵ See *Joint Modification No. 1 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department*, September 30, 2002, paragraph 6.

On October 19, 2004 DOJ contacted MPD by letter and asked MPD to provide a projected deliverable date for submission of the order to DOJ. MPD replied to DOJ on November 5, 2004. In the reply, MPD informed DOJ that negotiations regarding the Collective Bargaining Agreement remained ongoing. The parties had reached an impasse, and were going through the mediation process. We informed DOJ that the mediation process did not have a timeline associated with it that would allow us to project a date for submitting the revised order at this time.

Since our last report, negotiations have been completed. The FOP ratified the new Collective Bargaining Agreement on February 24, 2005. Accordingly, our Policy and Program Development Unit is currently reviewing the new contract to identify any necessary modifications that need to be made the Disciplinary Process General Order. MPD will keep both DOJ and the OIM updated on our progress.

Chain of Command Misconduct Investigations Manual

The Metropolitan Police Department submitted a draft *Chain of Command Misconduct Investigations Manual* (MOA paragraph 83) to DOJ on October 25, 2002. DOJ provided comments on the *Manual* on March 26, 2003. Part of the requirement of MOA Paragraph 83 is that MPD develop a template to assist investigators with completing their misconduct investigations. Through the PPMS development process, MPD realized that the template should be included in the PPMS system to ensure that consistent, comprehensive information is collected regarding misconduct investigations. However, in order to accomplish this, the PPMS vendor requested the completed template by January 12, 2004 to ensure that it was included in the design of the system. The template was submitted to DOJ for review on December 30, 2003. DOJ provided their approval "preliminarily," subject to MPD's completion of the several suggested changes, on January 7, 2004. MPD forwarded the revised, final template to DOJ and to our vendor on January 12, 2004. MPD also finalized revisions to the *Chain of Command Investigations Manual* (MOA paragraph 83), and forwarded the manual to DOJ for review on February 26, 2004.

Subsequent to the submission of the manual and template, MPD received the April 9, 2004 *Technical Assistance Related to MPD's Chain of Command Investigations* report prepared by the Office of the Independent Monitor. In part, the report contained recommendations specific to the way MPD conducted its misconduct investigations. Accordingly, MPD revised the template to accommodate many of the OIM's recommendations. MPD notified DOJ of these changes to the misconduct investigation template and submitted it along with a newly created "preliminary" misconduct investigation template to DOJ for review on June 7, 2004. Most recently, DOJ provided comments on the Chain of Command Investigations Manual on June 29, 2004 and provided comments on the misconduct investigation templates on September 24, 2004. MPD is currently reviewing both sets of comments.

Chain of Command Misconduct Investigations General Order

The Metropolitan Police Department submitted a draft *Chain of Command Misconduct Investigations General Order* (MOA paragraph 83) to DOJ on November 1, 2002. DOJ provided comments on the order on January 31, 2003. MPD provided an update on the general order to DOJ on December 31, 2003 and provided a revised version of the general order to DOJ for review on February 26, 2004. DOJ provided comments on the order on June 29, 2004. MPD is currently reviewing those comments in conjunction with the *Chain of Command Misconduct Investigations Manual* (MOA paragraph 83) and the associated investigative templates described above.

Canine Operations Manual

The Metropolitan Police Department submitted a draft *Canine Operations Manual* (MOA paragraph 147) to DOJ on November 27, 2002. DOJ provided comments on the manual on September 30, 2003. In their comments, DOJ stated that, "The materials which MPD submitted will likely need to be substantially revised and expanded upon once DOJ and MPD reach agreement about how this methodology is going to be implemented at MPD in compliance with the MOA." MPD has delayed making revisions to the Manual while MPD and DOJ have been revising the *Canine Teams General Order*. With the publication of the approved general order during this quarter, MPD plans to submit the revised manual during the next quarter.

Timelines

As previously reported, MPD and DOJ renegotiated a number of outstanding MOA deadlines in September 2002 and agreed to a modification of the MOA.¹⁶ The timeline issues excluded from the first modification were the dates that applied to the Personnel Performance Management System. On September 30, 2003, a second modification to the MOA was signed to renegotiate the outstanding deadlines surrounding PPMS-related deliverables of the MOA.¹⁷ However, as discussed above, MPD's PPMS efforts were interrupted due to funding issues. MPD notified the Department of Justice on March 8, 2004 that existing funding for the program would be exhausted by the end of March 2004. Accordingly, MPD discontinued its work with the selected PPMS vendor and began to aggressively pursue the identification of necessary funding.

MPD realized that we would be unable to meet the deadlines outlined in the second Modification to the MOA due to these funding setbacks. Accordingly, on June 14, 2004, MPD formally notified DOJ that we would be unable to meet these deadlines and

¹⁶ See "Joint Modification No. 1 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Police Department, September 30, 2002."

¹⁷ See "Joint Modification No. 2 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Police Department, September 30, 2003."

requested a third modification to the MOA. On June 18, 2004 we provided a proposed development schedule to further outline our proposal for the modification.

The Metropolitan Police Department and the Department of Justice worked together during the past three quarters on finalizing a third modification to the MOA. During this time, MPD was also able to secure additional funding for the PPMS project to restart. All that remained was obtaining City Council approval for the PPMS contract. However, at the end of the previous quarter, the Mayor's Office raised concerns with the deadlines that MPD had proposed to DOJ and wanted the assurances of the other affected City agencies that they could meet the proposed deadlines prior to agreeing to sign the Modification. Accordingly, MPD notified DOJ on December 23, 2004 of the concerns from the Mayor's office. Specifically, MPD notified DOJ that the Mayor's Office wanted the commitment of the agency heads from the Office of Contracting and Procurement, the Office of the Attorney General, and the Office of the Chief Technology Officer to the proposed dates before signing the document.

Chief Ramsey convened a meeting on January 7, 2005 between DOJ, the OIM, and leadership from the Mayor's Office, the Office of Contracting and Procurement, the Office of the Attorney General, and the Office of the Chief Technology Officer to discuss the proposed Modification to the MOA and to demonstrate show the commitment of the various District agencies in assuring that the new deadlines are met. The meeting was very beneficial and we appreciate both DOJ and the OIM's attendance.

After the meeting, DOJ and MPD exchanged final versions of the modification and finalized negotiations. One of the primary changes with this Modification is the incorporation of a "phased" development approach. The goal for Phase I development of PPMS will be the development of a system that is MOA compliant and is released to a limited set of MPD users. The goal for Phase II development will be to make any necessary adjustments to the system and to complete the rollout of the system to the entire MPD community. After finalizing revisions to the Modification, DOJ, MPD and the City executed the third Modification to the MOA on March 1, 2005. Table 1 highlights some of the deadlines included in the Modification.

MPD appreciates the Department of Justice's efforts with us in this area and is very pleased to have finalized the revised development deadlines for PPMS during this reporting period. A more detailed report of the status of the PPMS project is included later in this report.

Table 1: Modification 3, Selected Requirement Summary		
MOA ¶	MOA Requirement Summary	Deadline
114b	Secure finalized, signed contract with the PPMS vendor.	March 7, 2005
114c	Submit Protocol to DOJ <ul style="list-style-type: none"> • Submit General Order to DOJ • Submit Standard Operating Procedures to DOJ 	May 30, 2005 August 30, 2005
114d	DOJ and OIM Beta-Testing Begins	November 3, 2005
114e	PPMS computer program and computer hardware operational and fully implemented. <ul style="list-style-type: none"> • Phase I PPMS rollout complete • Phase II PPMS rollout complete 	January 19, 2006 August 31, 2006

Use of Force Incident Report

MOA paragraph 53 requires the development of a Use of Force Incident Report (UFIR). The paragraph states, in part, the following:

“MPD shall complete development of a Use of Force Reporting policy and Use of Force Incident Report. The policy shall require officers to notify their supervisor immediately following any use of force or receipt of an allegation of excessive use of force and to complete a Use of Force Incident Report. Additionally, the policy shall require officers to complete a Use of Force Incident Report immediately following the drawing of and pointing of a firearm at, or in the direction of, another person...”

As previously reported, the development and implementation of the Use of Force Incident Report (UFIR) raised numerous issues for the Metropolitan Police Department. The UFIR form also raised a number of concerns among the Fraternal Order of Police and the rank and file. Based on these concerns, MPD has continued to work toward revising the UFIR to make it more user-friendly. MPD had obtained feedback from officers that the form, particularly the layout, was complicated and confusing. MPD believed that such confusion contributed to officer frustration with the UFIR.

As a result, MPD updated and reformatted the UFIR form, and submitted the proposed revisions, along with a detailed explanation for each proposed change, to DOJ on November 20, 2002. On March 19, 2003 DOJ provided detailed written feedback on the

proposed form. MPD agreed to DOJ's recommendations regarding the UFIR, and submitted a revised UFIR that incorporated all of DOJ's suggestions on December 10, 2003. DOJ provided a response outlining their remaining concerns on February 27, 2004. On April 9, 2004, MPD submitted a written response to DOJ's February 27, 2004 letter.

During the second half of 2004, MPD and DOJ held a series of meetings and discussions to attempt to resolve the remaining outstanding issues surrounding the revised UFIR. Among the remaining issues being discussed was the most appropriate reporting and tracking mechanism when an officer is in "receipt of an allegation of excessive use of force."¹⁸ Specifically, MPD is concerned with the potential situation where officers would be required to complete a UFIR when they have not used any force. On September 24, 2004, DOJ provided a written response to MPD's April 9, 2004 submission. In the letter, DOJ agreed to MPD's proposed modification that for complaints of excessive force, when an officer maintains that he or she has not used any force, the incident should be processed as a citizen complaint instead of as a reportable use of force. MPD appreciates DOJ's receptiveness to working on this issue. On December 1, 2004, MPD replied to DOJ's letter and submitted a final version of the revised UFIR for approval. As part of that submission, MPD also drafted a Special Order outlining the procedures for completing a UFIR. DOJ provided their final recommendations regarding revisions to the Special Order on January 26, 2005. MPD anticipates providing a final revised package to DOJ during the next reporting period.

Pointing of a Weapon at or in the Direction of a Person

In the December 10, 2003 letter to DOJ concerning revisions to the UFIR, MPD also discussed another requirement of MOA paragraph 53. Paragraph 53 states, in part, that MPD's use of force policy shall,

"...require officers to complete a Use of Force Incident Report immediately following the drawing of and pointing of a firearm at, or in the direction of, another person..."

Based on MPD's experience with this requirement over the course of the MOA, and based on concerns raised by the Fraternal Order of Police, MPD proposed revisiting this requirement and modifying the MOA.

MPD agrees that tracking the pointing of a weapon at or in the direction of a person is important. However, MPD proposed that this information need not be tracked on a Use of Force Incident Report per se. The MOA does not include the pointing of a weapon in

¹⁸ MOA Paragraph 53.

its definition of use of force.¹⁹ MPD considers the pointing of a weapon to be a reportable action. Accordingly, MPD developed a draft Reportable Incident Form (RIF). The new form provides a mechanism for tracking "pointing" incidents without associating them with a use of force. MPD included the proposed Reportable Incident Form with its December 10, 2003 UFIR submission to DOJ. DOJ provided a response on February 27, 2004. In their response DOJ indicated they were close to providing approval for the Reportable Incident Form based on MPD's response to several procedural concerns including providing assurances that the forms would receive appropriate supervisory review.

MPD provided a response to DOJ on April 9, 2004. Specifically, MPD submitted a draft Teletype to DOJ for review that ensures that the Reportable Incident Forms receive appropriate supervisory review, comparable to the review done for completed UFIRs. DOJ provided a response to MPD's submission on September 24, 2004. MPD provided a response to DOJ on the RIF on December 1, 2004 that accommodated DOJ's two remaining concerns. In addition, as part of the submission, MPD took the draft Teletype regarding the RIF, previously submitted to DOJ on April 9, 2004, and replaced it with a draft Special Order. While Teletypes are an effective means for transmitting new rules and regulations to the Department quickly, MPD feels that using a Special Order will be a more effective way of communicating the procedures associated with the RIF, as well as the UFIR, over time. MPD also feels that having these Special Orders in place will help address some of the concerns that the OIM has raised about UFIR quality and completeness.

Specialized Mission Unit After-Action Report

The third piece of MPD use of force reporting deals with Specialized Mission Units. As previously reported, MPD sought to amend the reporting requirements for the UFIR form as it relates to select MPD Specialized Mission Units for incidents when multiple members of those units point their service weapons under specific enumerated circumstances. A Specialized Mission Unit is defined in the MOA as a group of officers who

*"...engage in significant patrol-related activities on a routine basis including contacts, stops, frisks, and searches..."*²⁰

Examples of Specialized Mission Units within MPD are the Emergency Response Team (ERT) and the Warrant Squad. MPD is concerned about delays in operational efficiency when numerous SMU members are engaged in a specific activity where it is expected

¹⁹ MOA Paragraph 35.

²⁰ MOA Paragraph 149

that most, if not all, members would be pointing their weapons (such as in a high risk warrant situation).

In a letter sent to DOJ on March 5, 2003, MPD proposed that members involved in such an incident would be exempt from having each member complete a UFIR. Instead, a unit manager would complete a Specialized Mission Unit After-Action Report.²¹ DOJ provided a response to this request on August 25, 2003. In their response, DOJ recommended some revisions to the proposed form as well as revisions to the draft *Specialized Mission Unit General Order*.

On December 31, 2003 MPD provided a revised Specialized Mission Unit After-Action Report along with a revised *Specialized Mission Unit General Order* that incorporated the policies and procedures for the After-Action Report. MPD has developed the following specific criteria for when a "pointing" incident can be recorded on a Specialized Mission Unit After-Action Report:

- The Specialized Mission Unit (SMU) is a permanent, established unit meeting the requirements established in SMU General Order.
- The SMU is operating as a team at the time of the incident.
- The SMU is led by a clearly identified police manager during the incident (a lieutenant or above.)
- The SMU is on a pre-planned operation with a clear mission (e.g. execution of a high risk warrant).
- Members are working in unison.

MPD's goal with the After-Action Report is still to capture all pertinent information from the UFIR and the proposed MPD Reportable Incident Form, but to do it in a single format (one after-action report completed by a manager rather than 15 individual, nearly identical reports). MPD feels that the revised *SMU General Order*, combined with the revised After-Action Report will accomplish this goal while meeting the spirit of the MOA.

DOJ provided comments on both the *Specialized Mission Unit General Order* and the After-Action Report on March 30, 2004. In their response DOJ provided final approval on the *Specialized Mission Unit General Order* and outlined their remaining concerns regarding the After-Action Report. However, on March 31, 2004 MPD requested that DOJ grant an extension for the 14-business day implementation requirement for approved policies while MPD and DOJ resolve the remaining issues with the After-Action

²¹ This form was previously called the *Specialized Mission Unit Force Incident Report* or SMUFIR

Report.²² DOJ granted MPD's request, and MPD submitted a written response to DOJ's March 30, 2004 letter on April 9, 2004. DOJ provided their final concerns regarding the After-Action Report on September 24, 2004, specifically around the use of a SMUAAR to document a high-risk warrant situation.

On December 1, 2004, MPD replied to DOJ and clarified that MPD continues to feel that the execution of a high-risk warrant, when meeting the other specific criteria outlined in the *Specialized Mission Unit General Order*, is one of the situations where a SMUAAR is appropriate. We believe the fluidity of these situations makes the SMUAAR the more appropriate means for documenting the incident. DOJ approved our request on January 26, 2005.

MPD is very close to receiving final approval from DOJ on the RIF, UFIR, SMUAAR, and the associated general orders. We plan to submit our final revisions, based on DOJ's latest comments, during the next quarter.

Communications & Community Outreach

On July 26, 2002, the Metropolitan Police Department's Office of Corporate Communications submitted a Communications Plan to DOJ regarding the Memorandum of Agreement. However, subsequent to that date, new outreach deliverable timelines were agreed upon. A revised Communications Plan reflecting the new outreach dates was completed and submitted to DOJ on November 1, 2002. DOJ provided their approval of the plan on January 31, 2003.

The Metropolitan Police Department Office of Corporate Communications has been the primary generator of MOA-related communications materials and activities. The Command Staff of MPD and the Compliance Monitoring Team have also played an active role in MOA communications activities. The *Civil Rights and Force Investigations Division* section on the MPD website, launched in 2002, continues to be a source for providing information to the public regarding MPD's efforts.²³ Copies of all of MPD Memorandum of Agreement progress reports are posted on the website.²⁴

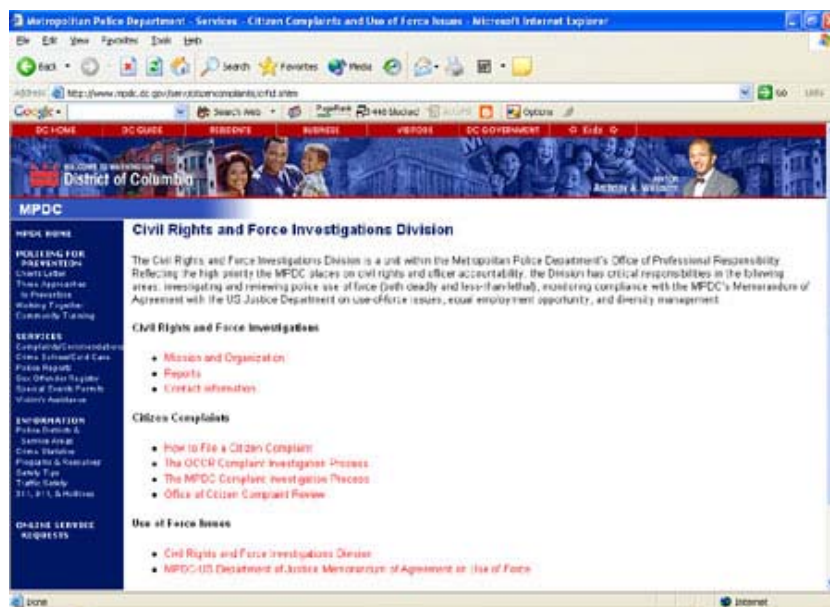
The Office of Corporate Communications also oversees the publication of *The Dispatch*, MPD's internal, daily newsletter. MPD has used *The Dispatch* as one of the methods to

²² See "Joint Modification No. 1 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department, September 30, 2002," paragraph 6.

²³ http://mpdc.dc.gov/mpdc/cwp/view,a,1241,q,548593,mpdcNav_GID,1523,mpdcNav,|.asp

²⁴ Quarterly Force Statistics and MPD MOA Progress Reports can be found online at:
<http://mpdc.dc.gov/mpdc/cwp/view,a,1241,q,548635.asp>

communicate information related to the MOA to MPD members. During this quarter, *The Dispatch* published an article regarding the provisions of the *Limitation on Work Hours General Order*. The article outlined the goal of the order to help reduce officer fatigue and provided a summary of the regulations. The article was published in *The Dispatch* on February 4, 2005 and on March 8, 2005. Copies of both editions are included as attachments to this report.



MPD Civil Rights and Force Investigation Division Homepage

MOA paragraph 160 requires that,

“MPD shall prepare quarterly public reports that include aggregate statistics of MPD use of force incidents broken down by MPD districts covering each of the geographic areas of the City, indicating the race/ethnicity of the subject of force. These aggregate numbers shall include the number of use of force incidents broken down by weapon used and enforcement actions taken in connection with the use of force. The report shall include statistical information regarding use of force investigations conducted, including the outcome. The report shall also include the total number of complaints of excessive force received, broken down by MPD Districts, and the number of complaints held exonerated, sustained, insufficient facts, and unfounded.”

In their last report the OIM expressed concern that MPD had not posted stats for the year 2004. During the last quarter, MPD has worked to remedy this situation. On March 18, 2005, MPD forwarded copies of the use of force statistics for each quarter for 2005. The OIM identified several changes that should be made to force statistics, and MPD is currently working on revising the reports accordingly. MPD plans to post all of the reports for 2004 early during the next quarter.

MPD also continues to embrace the concept of multiple conduits for citizens to file citizen complaints. In addition to traditional complaint reporting methods, citizens can

call a toll free telephone number (800-298-4006), email complaints to citizen.complaints@dc.gov, fax complaints to (202 727-5116); and hearing impaired stakeholders can file complaints via TDD at 202-898-1454.²⁵ Detailed, specific information on how to file a citizen complaint with MPD as well as a link to the Office of Police Complaints are also available on the MPD website.

The MOA also requires both the City and MPD to develop promotional materials regarding the citizen complaint process. Specifically, MOA paragraph 89 requires that,

“Within 120 days of the effective date of this agreement, the City shall make complaint forms, and informational materials available at OCCR, MPD headquarters, all MPD District stations and sub-stations, libraries, the internet, and, upon request, to community groups and community centers. At each MPD District station and sub-station, MPD shall permanently post a placard describing the complaint process and include the phone number of MPD's Office of Professional Responsibility.”

On September 8, 2004, MPD notified both the Department of Justice and the Office of the Independent Monitor that our email address for citizen complaints had changed and that we were planning to update our citizen complaint promotional materials. MPD's new email address for receiving citizen complaints, as noted above, is citizen.complaints@dc.gov.

During this quarter, revisions were made to the Citizen Complaint Brochure, Frequently Asked Questions (FAQ) Sheet, and Poster. MPD's website has already been updated with the new email address. MPD is also using this opportunity to replace references in our materials to the "Office of Citizen Complaint Review" with "Office of Police Complaints." As previously mentioned, the Office of Citizen Complaint Review's name officially changed to the Office of Police Complaints on January 1, 2005. The revised promotional materials were also shared with OPC for their comment and input. The materials have been completed and published and we expect to distribute them throughout MPD during the next quarter.

Office of Police Complaints

In the District of Columbia, the investigation of citizen complaints against MPD police officers involves both the Metropolitan Police Department and the Office of Police Complaints. The District government enacted a law in 1999 establishing the Office and the governing Citizen Complaint Review Board, now called the Police Complaints Board. The mission of OPC is to investigate, settle and adjudicate complaints of misconduct filed by the public against officers of the Metropolitan Police Department in an independent, fair and timely manner.

²⁵ MOA paragraph 92.

As mentioned above, on January 1, 2005, the Office of Citizen Complaint Review was renamed the Office of Police Complaints, and the Citizen Complaint Review Board became the Police Complaints Board (PCB). The Mayor and City Council supported the agency's renaming in order to more clearly convey the agency's mission of handling complaints against the police. They also wanted to make clear that anyone is welcome to file a complaint, whether or not they live in the District, and without regard to their United States citizenship status.

The agency has a new web address, <http://dcpc.dc.gov>, which replaced <http://occr.dc.gov>. The new website and other OPC outreach materials feature the new name, as well as the new logo pictured on the right. However, the renaming of the agency has not affected the daily work that OPC performs.



Office of Police Complaints Logo

Memorandum of Understanding

A Memorandum of Understanding was signed by representatives of both MPD and OPC on September 28, 2002. The MOU was drafted, pursuant to MOA paragraph 85, to address information sharing between the two agencies, training for OPC investigators, complaint intake and referral, witness interviews, and other items. MOA Paragraph 85 requires that, in part,

“...the City and MPD shall develop a written plan, in timely consultation with DOJ, that clearly delineates the roles and responsibilities of OCCR and MPD regarding the receipt, investigation, and review of complaints. At minimum, the plan shall specify each agency's responsibility for receiving, recording, investigating, and tracking complaints; each agency's responsibility for conducting community outreach and education regarding complaints; how, when, and in what fashion the agencies shall exchange information, including complaint referrals and information about sustained complaints; and the role and responsibilities of MPD official serving on the Citizen Complaint Review Board (CCRB).”

As previously noted, the Department of Justice and the Independent Monitor identified conflicts within the Memorandum of Understanding that did not comport with enumerated requirements in the MOA. Further, many jurisdictional and process disagreements remained between the agencies, despite the signing of the MOU.

Over the course of the last two years, representatives from each agency have met to discuss revisions to the MOU and to discuss outstanding issues. The meetings were very productive, and both agencies were able to agree to a number of revisions, including in the areas of information exchange and in training for OPC investigators. Accordingly, MPD and OPC submitted a revised MOU to DOJ on October 7, 2003. However, it was

noted that one outstanding issue remained regarding the duties of the MPD member that serves on the Police Complaints Board, specifically the guidelines and procedures for when it would be appropriate for the MPD member of the PCB to recuse him or herself from Board proceedings.

On May 3, 2004, MPD and OPC notified DOJ that the Police Complaints Board had approved the re-drafting of the "MPD member recusal" section of the MOU, and therefore, all remaining issues with the MOU had been resolved. DOJ provided their comments on the MOU on May 25, 2004.

During the third quarter of 2004, DOJ requested that MPD and OPC consider a final addition to the MOU before submitting it. DOJ requested that MPD take a more active role in assisting OPC with rescheduling officers who fail to attend scheduled OPC proceedings. MPD reviewed this request and agreed to include appropriate language in the MOU. The final draft of the MOU was submitted to the Department of Justice for review on September 24, 2004. DOJ provided their final approval for the MOU on December 22, 2004, and OPC and MPD signed the MOU on January 28, 2005. MPD thanks the OPC for their commitment and hard work over the past two years in revising this important document. A copy of the signed MOU approved by the Department of Justice is included in the Appendix of this report.

MPD continues to be very pleased with our relationship with OPC and looks forward with continuing our work in implementing the provisions of the MOU.

Investigations

One of the cornerstones of the MOA is ensuring that both misconduct investigations and use of force investigations are completed in a timely and sufficient manner. These types of investigations fall under the purview of the MPD's Office of Professional Responsibility. OPR determines which MPD unit will be responsible for the investigation of specific use of force and misconduct incidents. Within OPR, there are two primary organizational elements that conduct investigations: the Force Investigation Team and the Office of Internal Affairs (OIA). MOA paragraph 61 requires that the Force Investigation Team investigate serious use of force incidents²⁶ as well as use of force

²⁶ MOA Paragraph 33 defines serious use of force as, "lethal and less-than-lethal actions by MPD officers including: (i) all firearm discharges by an MPD officer with the exception of range and training incidents and discharges at animals; (ii) all uses of force by an MPD officer resulting in a broken bone or an injury requiring hospitalization; (iii) all head strikes with an impact weapon; (iv) all uses of force by an MPD officer resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ; (v) all other uses of force by an MPD officer resulting in a death; and (vi) all incidents where a person receives a bite from an MPD canine."

incidents indicating potential criminal conduct.²⁷ Other use of force incidents are investigated by the member's chain of command officials and are referred to as "chain of command use of force investigations."

The Office of Internal Affairs is responsible for investigating allegations of "serious misconduct" as defined in MOA paragraphs 72 and 73. Other allegations of misconduct are investigated by the member's chain of command officials and are referred to as "chain of command misconduct investigations."

As previously reported, Chief Ramsey requested that the Independent Monitor provide recommendations regarding improvements that could be made to MPD misconduct and non-FIT use of force investigations. The OIM promptly responded to this request, and submitted a report entitled *"Technical Assistance Related to MPD's Chain of Command Investigations"* on April 9, 2004.

In response to the report, the Office of Professional Responsibility, lead by the Compliance Monitoring Team, developed and/or enhanced several documents in order to address some of the issues that were identified. Although most of the documents are not formally required by the Memorandum of Agreement, MPD felt it was important to develop these policies and documents to help assist chain of command investigators and to improve the quality of both MPD use of force and misconduct investigations.

MPD found that many of the OIM's recommendations could be addressed through the creation and/or modification of Chain of Command Investigation Templates. Specifically, the following templates were used to address the OIM's recommendation:

- Use of Force Preliminary Investigation Template
- Use of Force Final Investigation Template
- Misconduct Preliminary Investigation Template
- Misconduct Final Investigation Template

The templates were distributed to the Department and have been in use since May 2004. All Department supervisors are required to use these templates for their investigations. In addition, the four templates were provided to the OIM and DOJ on June 7, 2004 for comment. The Department of Justice provided comments on the templates on September 24, 2004. MPD has found that the use of these templates has helped to ensure that supervisors include MOA-required information when they

²⁷ MOA Paragraph 35 states, "The term "use of force indicating potential criminal conduct by an officer" shall include all strikes, blows, kicks or other similar uses of force against a handcuffed subject."

complete their investigations. MPD is currently reviewing DOJ's comments on the templates and expects to submit revised templates during the next reporting period.

Use of Force

Chief of Police Charles Ramsey established the Force Investigation Team in January 1999. FIT has evolved into the new national model for police use of force investigations. The team, which took a business-related approach to force investigations, has been recognized internationally for its high-quality investigations and unique approach to use of force issues.

Previously, investigative protocols were established to comply with the requirements of the Memorandum of Agreement in the form of the *Force Investigation Team Organizational Plan and Operations Manual*. DOJ provided their approval for this document on December 31, 2003. FIT implemented the manual on January 29, 2004. FIT has worked very hard to provide a comprehensive operations manual that reflects the provisions of the MOA, and the DOJ-approved FIT Manual has been an invaluable resource for investigators.

The MOA requires that FIT investigators receive specialized training. MOA paragraph 84 reads, in part, that,

*"MPD shall provide specialized training to investigators who conduct shooting investigations."*²⁸

On September 20, 2002, records demonstrating FIT's compliance with training were submitted to both DOJ and the OIM. DOJ requested an update on FIT's training on September 30, 2003, and MPD provided that update on June 30, 2004. DOJ provided a response on August 31, 2004. The report asked for some additional information regarding how FIT investigators are trained. MPD is currently working on a response to DOJ's most recent comments.

On March 23, 2005, FIT held training for all of their investigators on the revised *Canine Teams General Order*.

In addition, on March 23, 2005, FIT held training for their investigators on the revised *Canine Teams General Order*. The training highlighted the changes that had been made to the order and it also provided the investigators an opportunity to ask any questions they had. A copy of the FIT training along with the sign-in sheet is included as an attachment to this report.

²⁸ MOA paragraph 84

The OIM has also continued to submit consistently favorable reports regarding the quality of the FIT's investigations. In their most recent quarterly report, the OIM said,

*"The OIM continued to review all preliminary and final use of force investigation reports prepared by FIT. From the start of this review, we have been consistently impressed with the high quality of investigations performed by FIT."*²⁹

FIT is committed to ensuring it maintains the highest level of quality in its use of force investigations and will continue to comply with all of the requirements of the MOA.

Office of Internal Affairs

MPD's Office of Internal Affairs continues to be a primary hub of MOA compliance efforts. As previously reported, MPD implemented the *Serious Misconduct Investigations General Order* on January 16, 2004. The *Serious Misconduct Investigations General Order* serves as the basis for outlining OIA's investigative responsibilities with regards to MOA requirements. The MOA specifies the types of alleged misconduct that must be investigated by the Office of Internal Affairs. MPD has defined these types of misconduct as "serious misconduct."

During this quarter, the Office of the Independent Monitor continued its practice of reviewing FIT, OIA, and chain of command investigative reports. During this quarter, the OIM reviewed a random selection of 78 misconduct and non-FIT use of force investigations.³⁰ The investigations are reviewed for compliance with the MOA by the OIM's police practice experts. The selected sample consisted of investigations randomly selected from each of the seven MPD police districts as well as other MPD assignments. The OIM and MPD worked together this quarter to provide the police practice experts with copies of the selected cases. The OIM again devoted a significant amount of time this quarter to reviewing the selected sample and documenting their analysis.

Over the course of their reviews, the OIM has provided useful statistical summaries of MPD's compliance with the various requirements for use of force and misconduct investigations, highlighting both areas of success as well as the areas that need improvement. For example, the OIM has consistently found that the proper authority within MPD has investigated use of force and misconduct allegations in at least 95% of the cases they have reviewed.³¹ They have also found that MPD has properly excluded involved supervisors and officials from conducting investigations into use of force and

²⁹ *Eleventh Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department*, January 31, 2005, p. 35.

³⁰ MPD and the OIM had previously clarified that FIT and OCCR investigations would not be considered part of the sample.

³¹ MOA paragraphs 57, 61, 64, 68, 72, 79, 80

misconduct in at least 95% of the cases they have reviewed.³² However, the OIM's statistical summaries also highlight areas needing improvement. For example, in their most recently quarterly report, the OIM found that timeliness of investigations continued to be an issue for MPD.³³

MPD has found the statistical summaries provided by the OIM to be very useful in identifying the areas that need focused attention. However, during this quarter, MPD requested a meeting with both the OIM and DOJ to discuss the criteria used by the OIM in determining whether or not investigations comprising the quarterly samples are "sufficient." During the meeting, MPD requested that the OIM provide MPD with a more detailed report regarding their findings each quarter. Specifically, for the cases the OIM finds to be "insufficient," MPD requested that the OIM provide more detailed information regarding those specific investigations. As with other requests, the OIM was very responsive and agreed to provide additional information to MPD each quarter. Statistical summaries regarding MOA compliance of the sampled investigations can be found in the appendix of each of the Monitor's quarterly reports.³⁴

MPD's Office of Professional Responsibility is committed to ensuring that all of the use of force and officer misconduct investigations conducted by the Department are consistent with the requirements of the MOA. OPR will continue implementing the remaining reforms contained in the MOA and looks forward to continuing its work with the Office of the Independent Monitor and with DOJ.

Police Canine Teams

On May 4, 2000 the Metropolitan Police Department implemented an interim canine policy and began the initiation of significant improvements in our canine operations. The Department of Justice acknowledged these improvements in paragraph 44 of the Memorandum of Agreement. Paragraph 44 reads,

"DOJ acknowledges that MPD has implemented an interim canine policy via teletype and has initiated significant improvements in its canine operations, including the introduction of a new handler-controlled alert curriculum and the use of new canines."

³² MOA paragraph 80

³³ See *Eleventh Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department*, January 31, 2005, p. 47.

³⁴ For the most recent statistical summaries, see *"Tenth Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department, November 12, 2004,"* Appendix B. All of the OIM's reports can be found on the Internet at <http://www.policemonitor.org>.

After the signing of the MOA, MPD worked on developing a revised *Canine Teams General Order* that incorporated relevant MOA requirements. DOJ approved MPD's *Canine Teams General Order*, and that policy was implemented on October 7, 2002.

However, as previously reported, the Office of Professional Responsibility conducted an assessment of MPD police canine incidents in early 2003 that had occurred since the institution of the second Force Investigation Team in January 2002. While the overwhelming number of canine bites were justified and within policy, the assessment did raise some questions concerning on-lead canine bites and warning announcements related to canine deployment. Further, issues were raised concerning the shifts and squads involved in canine bite incidents. The OIM also raised several concerns in their April 2003 quarterly report.³⁵

In response to these concerns, the Commander of the Special Operations Division began to institute changes within the Canine Unit. MPD also submitted a revised version of the approved *Canine Teams General Order* to the Department of Justice for review on June 4, 2003. DOJ's primary concerns were with canine bites that were occurring while canines were "on-lead" and bites that were occurring without a warning being given. MPD agreed with these concerns and revised the *Canine Teams General Order* to address these issues. MPD's primary focus in revising the general order was to provide a more comprehensive definition for Handler-Controlled Alert Methodology (HCAM), the canine training methodology employed by MPD. MPD feels that the revised general order, along with training enhancements³⁶ instituted by the Canine Unit will address the concerns that were raised.

MPD has worked with DOJ on revisions to the order since June 2003. MPD was very pleased to receive DOJ's final approval on the revised *Canine Teams General Order* on February 17, 2005, and the order was issued to the Department on February 18, 2005. MPD is very pleased that this order has been issued to the Department and appreciates DOJ efforts on working with us on this issue for the past two years.

In addition to the general order revisions described above, MPD also submitted its comprehensive *Canine Lesson Plan and Training Curriculum* to DOJ on October 4, 2002 (MOA Paragraph 145). A *Canine Operations Manual* was also developed (MOA Paragraph 147). A draft of the manual, which institutionalizes almost all MPD canine issues into one document, was completed and submitted to DOJ on November 27, 2002. DOJ provided comments on both the training curriculum and the manual on September 30, 2003. In their comments, DOJ stated that, "The materials which MPD submitted will likely need to be substantially revised and expanded upon once DOJ and

³⁵ Fourth Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department, April 29, 2003.

³⁶ See "Transition Point" and "Decision Point" discussion, *Metropolitan Police Department and U.S. Department of Justice Memorandum of Agreement Progress Report*, July 10, 2003, p.14

MPD reach agreement about how this methodology is going to be implemented at MPD in compliance with the MOA.” MPD delayed finalizing revisions to the Manual and the Lesson Plan while we have been working with DOJ on finalizing revisions to the *Canine Teams General Order*. Based on the approval and publication of the *Canine Teams General Order*, MPD plans to submit both the Manual and the Lesson Plan during the next quarter.

During this quarter, the Canine Unit also began a new “Basic Patrol Dog Class.” This fourteen-week course is designed to certify handlers and dogs in MPD’s Handler Controlled Alert Methodology. HCAM is the training methodology employed by MPD that results in both the canine and handler being trained to the point that the handler has demonstrated total control over the canine’s actions. With HCAM, the handler ensures that the canine is in constant view and under the handler’s total control at all times. The only time a canine is out of the visual range of a handler is when the canine clears a threshold (e.g. rounding a corner) In HCAM, the canine will only bite upon handler command. The only circumstance under which a canine may bite without handler command is if the canine, the canine handler, or another is threatened with possible attack. Five handler and canine teams are currently taking the Basic Patrol Dog Class and will complete their training during the next quarter.

MPD’s Canine Unit continues to be committed to ensuring that their policies and practices adhere to the requirements and to the spirit of MOA. MPD will continue to work with DOJ during the next quarter to finalize the *Canine Operations Manual* and the *Canine Lesson Plan and Training Curriculum*.

Training

Training and education are key aspects of the Metropolitan Police Department’s use of force management. Accordingly, the Department’s Maurice T. Turner Institute of Police Science is tasked with the responsibility to train members of the Department on the reengineered MPD policies. IPS continued its efforts this quarter regarding compliance with the MOA. A summary of those efforts appears below.

Lesson Plans

The MOA provides for DOJ approval over MPD’s use of force curriculum. Pursuant to MOA Paragraph 119 and 122, MPD originally submitted the eleven lesson plans that comprised its use of force curriculum to DOJ on July 24, 2002. The status of those lesson plans is outlined in Table 2 below. During this quarter, MPD submitted two revised use of force lesson plans to DOJ for review on March 15, 2005. Specifically, MPD submitted the following lesson plans:

- Officer Street Survival Lesson Plan
- Use of Force Continuum (with Manual)

The lesson plans incorporated comments from DOJ's most recent correspondence. In addition, MPD's General Counsel reviewed and approved DOJ's recommended changes to the above lesson plans consistent with MOA paragraph 120 which states,

"MPD shall continue to have all training materials reviewed by General Counsel or other legal advisor."

On March 24, 2005, DOJ provided their approval for both lesson plans.

Table 2: MPD Use of Force Curriculum Summary	
ASP Tactical Baton Training Program	Approved by DOJ (09-30-03)
Close Quarter Combat	Approved by DOJ (09-30-03)
Controlled F.O.R.C.E.	Approved by DOJ (09-30-03)
Ground Fighting	Approved by DOJ (09-30-03)
Handcuffing	Approved by DOJ (09-30-03)
Krav/Maga	Approved by DOJ (09-30-03)
OC Spray	Approved by DOJ (09-30-04)
Officer Street Survival	Approved by DOJ (03-24-05)
Pistol Qualification ³⁷	Pending MPD (as of 02-02-05)
Use of Force Continuum (with Manual) ³⁸	Approved by DOJ (03-24-05)
Verbal Judo	Approved by DOJ (09-24-04)

In addition to its work on the use of force curriculum, IPS completed development of sixteen lesson plans in September 2002 to demonstrate compliance with MOA paragraphs 84, 98, and 129 which deal with training supervisors and investigators. The lesson plans also served as the curriculum for fiscal year 2003 Annual In-Service Training. Table 3 summarizes the lesson plans that were created to comply with MOA paragraphs 84, 98, and 129 as well as the current status of each lesson plan.

During this quarter, MPD receive DOJ's final approval for its Cultural Diversity and Sensitivity Awareness Lesson Plan on February 10, 2005. In addition, MPD submitted the final version of the Interview and Interrogation Lesson Plan³⁹ on March 15, 2005, and received DOJ approval for the plan on March 24, 2005.

³⁷ It should be noted that this lesson plan was previously approved by DOJ on September 30, 2003. However, MPD subsequently made changes to the lesson plan. Accordingly, the plan was resubmitted to DOJ for approval.

³⁸ It should be noted that this lesson plan was also submitted as one of the sixteen lesson plans that comprised the curriculum for fiscal year 2003 Annual In-Service Training.

³⁹ It should be noted that for the Interview and Interrogation lesson plan, DOJ did not request specific revisions to the lesson plan but requested a copy of the excerpts that were referenced in one of the lesson plan handouts.

Table 3: MOA 84, 98, and 129 Lesson Plans Status	
Administrative Misconduct Investigation Policy & Procedures Using the Preponderance of Evidence Standard	Pending approval of <i>Chain of Command Misconduct Investigations General Order</i> and <i>Chain of Command Investigations Manual</i>
Arrest, Custody, and Restraint Procedures	Approved by DOJ (09-30-04)
Bias-related Hate Crimes	Approved by DOJ (05-16-03)
Canine Policies and Procedures	Pending MPD (as of 02-17-05)
Command Accountability	Approved by DOJ (11-25-02)
Communication and Interpersonal Relationship Skills	Approved by DOJ (11-25-02)
Crime Scene Preservation	Approved by DOJ (05-16-03)
Cultural Diversity and Sensitivity Awareness	Approved by DOJ (02-10-05)
Defensive Tactics	Approved by DOJ (05-16-03)
Ethics, Integrity, and Professionalism	Approved by DOJ (11-25-02)
Interview and Interrogation	Approved by DOJ (03-24-05)
Theories of Motivation and Leadership	Approved by DOJ (11-25-02)
Use of Force and Use of Force Continuum (with Manual) ⁴⁰	Approved by DOJ (03-24-05)
Use of Force Incident Report Form	Pending approval of revised UFIR.
Use of Force Review Board	Approved by DOJ (09-30-04)
Verbal Judo Recertification	Approved by DOJ (11-25-02)

In addition, with the approval and publication of the *Canine Teams General Order*, IPS staff will be working during the next quarter to revise the Canine Policies and Procedures Lesson Plan in addition to making revisions to the Pistol Qualification Lesson Plan.

Field Training Officer Program Protocol

The Metropolitan Police Department submitted a draft *Enhanced Field Training Officer Program Protocol* to DOJ on December 6, 2002, pursuant to MOA paragraph 121f. The MOA requires that,

“MPD shall continue its Field Training program. Within 120 days of the effective date of this Agreement, MPD shall develop a protocol, subject to approval by DOJ, to enhance the Field Training program. The protocol shall address the criteria and method for

⁴⁰ It should be noted that this lesson plan was also submitted as one of the eleven lesson plans that comprised the use of force curriculum originally submitted to DOJ July 24, 2002.

*selecting Field Trainers, the training provided to Field Trainers to perform their duties, the length of time that probationary officers spend in the program, the assignment of probationary officers to Field Trainers, the substance of the training provided by the Field Trainers, and the evaluation of probationary officer performance by Field Trainers.*⁴¹

DOJ provided comments on MPD's submission on September 30, 2003. MPD finalized their revisions and enhancements to the FTO Protocol and it was submitted to DOJ on September 27, 2004. On December 9, 2004 DOJ provided their final approval of the FTO program. MPD has been working since that time on implementing the program.

One of the first steps that MPD has taken to better coordinate our efforts regarding the FTO Program is to ensure that a lieutenant or above is assigned to serve as the FTO Program Coordinator for each district. The Deputy Director of IPS began holding monthly meetings with the coordinators during the last quarter and continued the practice this quarter. MPD feels that these meetings will provide coordination between the different district FTO programs and to ensure consistency among the programs. However, at our monthly meeting with the Independent Monitor in March, the OIM expressed concerns that MPD's planned implementation, which would take place throughout the summer, may not be aggressive enough. MPD and IPS staff are reviewing the implementation schedule to ensure that MPD moves forward as quickly as possible.

Other IPS Memorandum of Agreement Activities

On March 19, 2005, MPD also submitted a response to DOJ's February 3, 2005, letter regarding IPS's staff assessment required by MOA paragraph 134.

In addition, on December 30, 2004 MPD had submitted its Semi-Annual Use of Force Curriculum Review. These reviews are required by MOA Paragraph 119 to be submitted to both the Department of Justice and the Office of the Independent Monitor. The latest review summarized the various changes that IPS staff have made to the use of force curriculum during the past six months. DOJ provided their comments on the Semi-Annual Review on February 2, 2005. MPD is currently reviewing those comments and plans to submit their next Semi-Annual Use of Force Review at the end of June.

⁴¹ MOA paragraph 121f

Personnel Performance Management System

The Metropolitan Police Department and the District of Columbia have committed to develop and fully implement the Personnel Performance Management System, the early intervention system required by the MOA. PPMS will be,

“a computerized relational database for maintaining, integrating, and retrieving data necessary for supervision and management of the Police Department and its personnel.”⁴²

PPMS will be used regularly and affirmatively by the Metropolitan Police Department to promote civil rights integrity and best professional police practices.

As previously reported, MPD has experienced significant delays with the implementation of PPMS. MPD acknowledged that it had not met the original PPMS timetables set forth in the MOA, and Chief Ramsey was not satisfied with the progress made on the project. He recognized that the Department's efforts in this area needed to be enhanced. Accordingly, Chief Ramsey reorganized the MPD Information Technology Division (MPD-IT), and appointed a Chief Information Officer (CIO) who reports directly to him. Accordingly, MPD, DOJ and the City were able to reach agreement on September 30, 2003 to a second modification to the MOA that provided revised deadlines for all PPMS-related MOA deliverables.⁴³

In accordance with MOA Paragraph 114b, MPD selected IBM and Motorola to develop PPMS. IBM/Motorola began work with the Department in September 2003. MPD and IBM/Motorola worked very closely during late 2003 and early 2004 to finalize the development of PPMS system requirements. However, as previously reported, MPD experienced a significant setback in the area of funding for PPMS. MPD had to temporarily interrupt work with IBM/Motorola on March 31, 2004 due to a lack of funding. Accordingly, during the past year, MPD has worked to secure additional funding for the project and to finalize the contract for the development of PPMS.

MPD notified DOJ of the funding setback on March 8, 2004 and has kept both the Department of Justice and the Office of the Independent Monitor updated on our progress. As previously reported, MPD submitted an initial proposal for a third modification to the MOA with new deadlines for the development of PPMS in June of 2004.

⁴² MOA Paragraph 106

⁴³ See “Joint Modification No. 2 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Police Department, September 30, 2002”

Since that time, MPD has been engaged in discussions with DOJ regarding these new deadlines. DOJ and MPD were able to agree to final language for the third modification as well as new deadlines for the development of PPMS in late December. However, the Mayor's office raised concerns and wanted the assurances of the other affected City agencies that they could meet the proposed deadlines prior to agreeing to sign the Modification. Specifically, the Mayor's office wanted the assurances of the agency heads from the Office of Contracting and Procurement, the Office of the Attorney General, and the Office of the Chief Technology Officer to the proposed deadline for securing the contract with the vendor before signing the document.

Chief Ramsey convened a meeting on January 7, 2005 between DOJ, the OIM, as well as the leadership from other affected City agencies to discuss the proposed Modification to the MOA as well as to demonstrate the commitment of the various District agencies in ensuring that the new deadlines are met. The meeting was very beneficial and helped to provide the necessary guidance as MPD and the City moved forward with securing the finalized contract.

During the months of January and February, DOJ and MPD exchanged revised drafts of the modification and finalized negotiations. MPD worked with the various City agencies to prepare the finalized PPMS contract for City Council review. In preparation of City Council review, members of MPD, OCP, and OCTO also scheduled briefings and met with Councilmember Mendelson, Councilmember Orange, and staff members of Councilmember Patterson. MPD was very pleased to receive notification that Council had approved the package on February 25, 2005. Accordingly, OCP finalized the contract with our selected vendor. In addition, we were also able to finalize negotiations on the third modification at the end of February, and the City, MPD, and DOJ executed the third modification to the MOA on March 1, 2005. IBM/Motorola restarted work at MPD on the March 7, 2005. MPD appreciates the collaborative efforts of OCP, OAG, OCTO and the Mayor's Office in assisting MPD in achieving this goal. MPD also appreciates the time and effort DOJ put into the renegotiations for the third modification. We are very pleased to have the project back on track, and MPD will ensure it is treated as a priority.

As discussed earlier in the report, one of the primary changes with the third modification is the incorporation of a phased development approach. The goal for Phase I development of PPMS will be the development of a system that is MOA compliant and is released to a limited set of MPD users. Among the units that will be included in the initial user base are the Office of Professional Responsibility, Human Services Division, IPS, the Canine Unit, as well as one Regional Operations Command (ROC) and one Police District. Phase II development will include making any necessary adjustments and enhancements to the system and will also complete the rollout of the system to the entire MPD community.

As reported during the last quarter, MPD has continued to hold PPMS team meetings to ensure that necessary work continued until the PPMS vendor restarted with MPD. MPD created a number of smaller work groups to address these issues including:

- Database Conversion Validation Team
- Development Team
- Technical Infrastructure Team
- Early Intervention Program Team
- Reports Team
- General Order and Process Team
- User Acceptance Test Development Team
- PPMS MOA Compliance Team
- Training Team
- Rollout Team

During the previous quarter, the teams were formed, and team leads were chosen. The teams met and developed "charters" that outlined their mission and objectives. They are also completing schedules that outline the work that each team is responsible for. The teams have been finalizing report identification, outlining training needs, and continuing efforts to further define the early intervention part of PPMS. In addition, the CMT has been participating in many meetings to ensure that PPMS development proceeds in accordance with the requirements of the MOA.

At the end of the quarter, the vendor convened a series of meetings with MPD subject matter experts to reconfirm the system requirements that had been identified in the Joint Application Development (JAD) sessions held in late 2003. Those requirements were documents in the "Joint Application Development Consolidated Report and Fit Gap Analysis" which will serve to guide the system developers as the base system is configured for MPD's needs.

The PPMS Executive Steering Committee has also continued their weekly meetings to discuss the progress of PPMS. Selected MPD Command Staff members make up the committee whose purpose is to brief Chief Ramsey on a weekly basis about MPD's progress with developing the system. These meetings serve to keep Department leadership informed and also ensure that the development of PPMS remains a top priority. MPD is exceptionally pleased with the progress that has been made during this quarter. The signing of the third modification along with restarting our work with IBM/Motorola were two critical milestones in continuing our development with PPMS.

Performance Evaluation System

The MOA requires that MPD enhance its Personnel Evaluation System. Paragraph 118 of the MOA reads, in part,

“...MPD shall prepare for the review and approval of DOJ, and thereafter implement, a plan to enhance its new Performance Evaluation System to ensure that annual personnel performance evaluations are prepared for all MPD sworn employees that accurately reflect the quality of each sworn employee's performance, including, but not limited to:

- a. civil rights integrity and the employee's community policing efforts;*
- b. adherence to law, including but not limited to performing duties in a manner consistent with the requirements of the Fourth and Fifth Amendments to the Constitution and the Civil Rights laws of the United States;*
- c. with respect to managers, and supervisors, their performance in identifying and addressing at-risk behavior in subordinates, including their supervision and review of use of force; arrests, booking, and performance bearing upon honesty and integrity.”*

The Metropolitan Police Department submitted a draft *Enhanced Performance Evaluation System Protocol* to DOJ on November 8, 2002. DOJ provided comments on the protocol on May 2, 2003. MPD provided a status report on those comments on September 30, 2003. On October 6, 2003, DOJ provided comments on MPD's update. On March 5, 2004, MPD provided an additional update regarding its efforts in revising the Performance Evaluation System that outlined the work done by MPD to date. MPD submitted the final, revised materials to DOJ for review on July 1, 2004. The following materials were included with the submission:

- Revised Performance Management System, Officer Performance Standards
- Revised Performance Management System, Sergeant Performance Standards
- Revised Performance Management System, Investigative Personnel⁴⁴ Performance Standards
- General Order PER 201.20, Performance Management System (PMS) for Sworn Members Serving in the Ranks/Positions of Officer, Agent, and Sergeant

On September 10, 2004, MPD contacted the Department of Justice to request that they expedite their review of our most recent submission. MPD performance evaluations for officers and sergeants operate under the “fiscal year” timeframe (October 1 – September 30). Accordingly, MPD wanted to implement the new standards and revised general order in time for the new rating period. DOJ agreed to do what they could to accommodate our request. On September 24, 2004 DOJ contacted MPD to request additional information to aid in their review. In part, they wanted to obtain some overview information regarding the City's “Performance Management Program”(PMP).

⁴⁴ Investigative personnel include agents, investigators, detectives grade two and detectives grade one

The PMP is the citywide program designed to be an objective and developmental approach to assessing employee performance. MPD uses the Performance Management Program for evaluating sworn members the rank of lieutenant or above. MPD provided the requested information regarding the PMP on September 29, 2004.

On November 29, 2004, MPD contacted DOJ to inform them that we felt we had to move forward with issuing a special order governing FY 2005 performance evaluations along with the instructional manuals and governing standards. MPD regretted having to move forward with this rating period without having received DOJ's comments or approval. However, MPD felt we could not delay the start of the rating period, along with the initial supervisor conferences, any further.

It is important to note that MPD has already revised the PES materials that were issued based on comments DOJ had already provided. Accordingly, we feel that the materials issued for FY 2005 are significant improvements over previous materials, and MPD feels that we are well on our way to being fully compliant with the requirements of MOA paragraph 118.

On December 15, 2004, DOJ provided their comments on the July 1, 2004 submission. MPD is currently reviewing those comments and will work with DOJ to obtain final approval and implement any additional revisions that are necessary for the FY 2006 rating period. DOJ has requested, and MPD has agreed to provide a response to their December 15, 2004 comments by the end of the next reporting period. This will help to ensure that all changes can be finalized and implemented in time for the FY 2006 rating period.

Department of Justice

Since the creation of the Compliance Monitoring Team in February 2002, there has been significant, sustained interaction and cooperation between the Metropolitan Police Department and the Department of Justice. Notwithstanding meetings and formal correspondence, there have been numerous other contacts between the two agencies in order to continue the established dialogue.

During this reporting period, one of the DOJ attorneys assigned to work with MPD, Ms. Lisa Graybill, left DOJ to pursue other interests. Ms. Graybill has worked with MPD on the MOA since 2001. Her consistent professionalism and integrity were an asset to both DOJ and MPD, and we appreciate her tireless efforts in working with us for the past three and a half years. Most recently, Ms. Graybill was instrumental in helping finalize the third modification to the MOA. Ms. Graybill will be missed, and MPD wishes her well in the future. Mr. Todd Schneider has been assigned by DOJ to take Ms.

Graybill's place, and members of the CMT met and spoke with Mr. Schneider on several occasions during this quarter. We look forward to working with him in the future.

Representatives from MPD and DOJ continued attending the monthly "all-hands" meetings held at the Office of the Independent Monitor, as well as monthly DOJ and CMT Meetings that are held on the third Thursday of every month. DOJ also provided comments on MPD work products during the quarter consistent with MOA paragraph 178.⁴⁵ DOJ provided comments on a number of MPD deliverables during this reporting period including:

- *Canine Teams General Order* (MOA paragraphs 44-46)
- UFIR, RIF, and SMUAAR (MOA 53 and 150-158)
- Various lesson plans including Diversity and Cultural Awareness, Officer Street Survival, Use of Force Continuum (with Manual), Interview and Interrogation, and Pistol Qualification (MOA 84, 122, and 129)
- *Processing Citizen Complaints General Order* (MOA paragraph 94)
- OPC's Investigations Manual (MOA paragraph 97)
- MPD's Plan for Compliance with MOA Paragraphs 107 and 109
- MPD's Semi-Annual Use of Force Review (MOA 119)
- IPS Staffing and Instructor Evaluation (MOA paragraph 134)

The level of cooperation between the MPD and DOJ remains high. MPD is extremely pleased with the relationship that exists with the U.S. Department of Justice. All of the members of DOJ's MPD team are exceedingly professional and responsive. The Metropolitan Police Department looks forward to continuing its partnership with the Department of Justice to jointly complete the requirements of this Memorandum of Agreement.

Fraternal Order of Police

The Fraternal Order of Police is the Labor Union for all police officers, technicians, detectives, and sergeants on the Metropolitan Police Department. The Metropolitan Police Department recognizes the importance and value of including the FOP in Memorandum of Agreement endeavors.

However, the relationship between MPD and the FOP, at times, has been challenging. The FOP had initially declined to participate in MOA-related endeavors when the CMT was formed, and previously filed an Unfair Labor Practice (ULP) Complaint against the

⁴⁵ MOA paragraph 178 reads, "DOJ shall review documents and information provided by MPD and the Monitor and shall provide its analysis and comments to the City, MPD and the Monitor at appropriate times and in an appropriate manner, consistent with the purpose of this Agreement to promote cooperative efforts."

Metropolitan Police Department with the District of Columbia Public Employees Relations Board (PERB). The Labor Union cited alleged changes in terms and conditions of employment relating to the Memorandum of Agreement as the reason for the filing.

As previously reported, the Hearing Examiner for the case stated that the filing of the Unfair Labor Practice charge fell outside of the 120-day window established by PERB Rule 520.4 for filing such charges. The Hearing Examiner did not address the merits of the case. Exceptions were filed by the union and opposed by the Department. The PERB issued a decision during this quarter. On October 15, 2004, the PERB adopted the finding of the Hearing Examiner that the case should be dismissed because the FOP did not file its complaint in a timely manner. As a result, the PERB dismissed the complaint in its entirety.

As previously reported, the FOP and MPD also finalized their negotiations regarding the Collective Bargaining Agreement during this quarter. Article 12 of the Collective Bargaining Agreement, which specifically relates to disciplinary procedures, was one of the items being negotiated. MPD had delayed revisions to the *Disciplinary Process General Order*, required by MOA paragraph 105 until those negotiations were completed.

Since our last report, negotiations have been completed. The FOP ratified the new Collective Bargaining Agreement on February 24, 2005. Accordingly, our Policy and Program Development Unit is currently reviewing the new contract to identify any necessary modifications that need to be made the *Disciplinary Process General Order*. MPD will keep both DOJ and the OIM updated on our progress.

The FOP also continues to be involved in PPMS work groups, including the Early Intervention Program Team. Copies of the MPD's Quarterly Progress Reports are also provided to FOP leadership to help keep them informed of our MOA activities. MPD plans to continue this work in the future.

Independent Monitor

The Memorandum of Agreement requires that the Metropolitan Police Department and the Department of Justice jointly select an Independent Monitor to review, report, and assist on matters related to the Agreement's implementation.⁴⁶ On March 28, 2002, the Metropolitan Police Department and the law firm of Fried, Frank, Harris, Shriver & Jacobson jointly announced that Michael R. Bromwich had been selected as the

⁴⁶ MOA Paragraph 161

Independent Monitor. Mr. Bromwich is a partner at the firm, and is head of the internal investigations, compliance and monitoring practice group there.

The Independent Monitor completes and disseminates quarterly progress reports regarding MPD and the City's Memorandum of Agreement compliance efforts. The next report is scheduled to be completed later this month. Previous reports are available at the Independent Monitor's website at www.policemonitor.org.

The Independent Monitor continues to host monthly "all-hands" meetings in which all MOA stakeholders meet including the Chief of Police, the Department of Justice, the Office of Police Complaints, and the Compliance Monitoring Team. These meetings occur on the first Monday of each month.

During this quarter, the OIM responded to MPD's request to meet to discuss the OIM's quarterly reviews of our use of force and misconduct investigations as well as the substantial compliance definition for MOA paragraph 52. We met with the OIM and DOJ on February 25, 2005 to discuss these issues. Regarding the OIM's review of our investigations, we wanted to discuss how the OIM determines whether or not a case is "sufficient," including how the timeliness of investigations is factored into their determinations. The OIM was very receptive to our request and provided detailed information regarding how they arrive at their determinations. As discussed earlier, they also agreed to share more detailed information with MPD with future reviews. MPD feels this information will very helpful in allowing us to focus on some of the more specific issues that cause some of our investigations to be found "insufficient." We appreciate the OIM's responsiveness to our request.

At the meeting, we also agreed to modify the substantial compliance definition for MOA paragraph 52. MOA paragraph 52 states,

"Prior to implementation of the policies and procedures referenced in this section, MPD shall submit them to DOJ for approval. In the event MPD revises any of the policies, procedures, or forms referenced in this section during the term of this agreement, it shall obtain approval from DOJ prior to implementation of the revised policy or form."

The OIM has been applying their definition for substantial compliance for this paragraph in their quarterly reports for the two previous quarters. However, we felt the requirement, which required MPD to receive DOJ's final approval for the referenced orders in order to be in compliance, was not the most appropriate measure to reflect the intent of paragraph 52. In addition, we felt this measure was also captured by other MOA paragraphs' substantial compliance definitions. We felt a more appropriate measure for this paragraph would be ensuring that MPD communicates any changes that we want to make to the referenced general orders and that we obtain DOJ approval *prior* to implementing those changes. MPD feels we are substantially complying with the intent of this paragraph, with the most recent example being our

work with DOJ over the past fifteen months in obtaining their approval to revisions to the *Canine Teams General Order*. Both DOJ and the OIM were receptive to our discussions and agreed to modify the definition for substantial compliance for MOA paragraph 52 accordingly. We appreciate both DOJ's and the OIM's willingness to meet with us and discuss these issues.

Additionally, the OIM has continued its practice of sending its police practice experts to the Department in order to review various aspects of MOA compliance. The Compliance Monitoring Team has been assisting the OIM by facilitating document and meeting requests throughout the Department. During this reporting period, members of the OIM team engaged in a number of monitoring activities including:

- Completed review of seventh sample of use of force and misconduct investigations
- Continued reviewing all completed FIT preliminary and final use of force investigations
- Monitored UFRB hearing and provided technical assistance regarding the UFRB
- Reviewed UFIRs
- Continued review of use of force training attendance
- Monitored new canine training
- Monitored implementation of FTO program
- Interviewed members of Specialized Mission Units

MPD continues to be pleased with our working relationship with the Independent Monitor. MPD consistently finds the OIM's reports to be comprehensive, detailed and informative, and these reports have played a vital role in helping MPD to comply with the MOA. MPD looks forward to continuing our work with the OIM during the next quarter.

Conclusion

The Metropolitan Police Department achieved a number of important MOA milestones during this quarter. Most significantly, MPD restarted work with our vendor on developing the PPMS system. MPD's collaborative efforts with the Mayor's Office and other affected City agencies enabled the finalization of the PPMS contract. MPD's

vendor restarted work on March 7, 2005, and MPD is treating our development efforts as a top priority.

In addition, MPD and DOJ executed the third modification to the MOA during this quarter. The third modification, executed on March 1, 2005, contains new deadlines for the development of PPMS. Finalizing this modification removed MPD from breach status with regard to PPMS, and MPD appreciates DOJ's efforts over the last year on this issue.

MPD also received final DOJ approval for four lesson plans, including our Use of Force Curriculum Lesson Plan. In addition, two important MOA-related policies were issued to the Department during this quarter, the *Limitation on Work Hours General Order* and the revised *Canine Teams General Order*.

During the next quarter, MPD will continue working toward completing outstanding MOA deliverables including the *Disciplinary Process General Order* and the changes to our *Performance Evaluation System*. The Metropolitan Police Department remains committed to becoming fully compliant with the provisions of the MOA and becoming the national model on how to uphold the rule of law while using force only when and to the extent necessary.

Attachments

- MPD-DOJ Memorandum of Agreement Completion Matrix Report, March 31, 2005
- General Order PER-306.01 (*Canine Teams*), February 18, 2005.
- *Memorandum of Understanding Between the Office of Police Complaints and the Metropolitan Police Department*, January 28, 2005
- General Order PER-201.21 (*Limitations on Work Hours*), January 6, 2005.
- *Joint Modification No. 3 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department*, March 1, 2005.
- "New General Order on Work Hour Limitations to Deter Fatigue," *The Dispatch*, February 4, 2005.
- "New General Order on Work Hour Limitations to Deter Fatigue," *The Dispatch*, March 8, 2005.
- Force Investigation Team, Canine General Order Training Presentation, March 23, 2005.